IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 31677 of 2007(U)

PETITIONER:

KANAKAMMA, D/O.PONNAMMA,
TC 44/1574, KAMALESWARAM, THIRUVANANTHAPURAM.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:
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1. CIRCLE INSPECTOR OF POLICE,
POONTHURA POLICE STATION, THIRUVANANTHAPURAM.

2. SIDHIQUE, AGED 34 YEARS,
S/O.KHALEED, TC 43/467(7), NANDANAM,
VALLAKKADAVU P.O., THIRUVANANTHAPURAM.

3. MOHANAN.M., S/O.MANIKANTAN NAIR,
AGED 43 YEARS, VAYALILVEEDU, TC 42/550,
MUTTATHARA, VALLAKADAVU P.O., THIRUVANANTHAPURAM.

R1 BY GOVERNMENT PLEADER SHRI. P.A. SALIM
SRI.B.PREMNATH (E)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 31677/07

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF ORDER NO: B7-25817/2007 DT. 27..2007 ISSUED BY THE DIST. COLLECTOR, THIRUVANANTHAPURAM

EXT.P2: -DO- OF PETITION DT. 19.10.2007 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

jj /TRUE COPY/

P.A. TO JUDGE

K.BALAKRISHNAN NAIR & K.T.SANKARAN, JJ.

Writ Petition (C) No.31677 of 2007-U

Judgment

Balakrishnan Nair, J.

The petitioner is the owner of 13.75 cents of land in Survey Nos.1803 and 1809 of Muttathara Village in Thiruvananthapuram taluk. It is a low lying land. She wanted to fill the land and construct a building there. Since it is a paddy field as per the revenue records, the petitioner moved the District Collector for permission to fill the land under the Kerala Land Utilisation Order, 1967. The District Collector granted permission as per Ext.P1 order dated 27.06.2007, subject to certain conditions. One of the conditions is that there shall not be any obstruction to water channels. When the petitioner started to fill the land, respondents 2 and 3, who are neighbouring property owners, obstructed. So, she filed Ext.P2 representation before the Police, seeking protection to fill the land as permitted in Ext.P1. When the Police did not extend any helping hand, this Writ Petition is filed, seeking appropriate reliefs.

2. The first respondent has field a statement, in which it is submitted that Ext.P2 representation has not been served on the Police. Further, it is submitted that a complaint was filed by a Municipal Councillor before the RDO,

alleging that certain persons are filling the land in the area unauthorisedly. The said complaint was forwarded by the RDO to the Police for appropriate action, it is submitted.

3. The party respondents have filed a counter affidavit, in which it is stated as follows :

> *"It is submitted that the nearby inhabitants of the petitioner's land including these respondents wanted to construct a canal to vent the water in their property, which would pass through the boundary of the property of the petitioner. The apprehension of these respondents is that once the petitioner fills up her land without providing any water canal, their property would get flooded. If the petitioner pays heed to this and adheres strictly to the guidelines in Ext.P1 while filling up her property, there is no reason why these respondents should obstruct her at all."*

4. We heard the learned counsel on both sides. Whether the petitioner is filling the land subject to the conditions in Ext.P1 or not is a civil dispute between the parties. No statutory provision has been brought to our notice, enabling the Police to adjudicate that dispute and on finding that the petitioner

is doing the filling in accordance with Ext.P1, render protection to her. The Police cannot be conferred any jurisdiction to do that. Their duty is only to prevent commission of cognizable offence and take action if report of any cognizable offence is received. The petitioner can move the competent civil court if the party respondents illegally obstruct her and get appropriate injunction orders. If the same is violated, the civil court is competent to address the police also to render police assistance to enforce its orders. In view of the above position, the prayer of the petitioner for an order under Article 226 of the Constitution of India, to the Police, cannot be granted. But, it is ordered that if any cognizable offence is reported, the Police shall take necessary action. If information regarding any design to commit cognizable offence is received, then also, the Police shall take appropriate action in accordance with law.

K.BALAKRISHNAN NAIR,JUDGE

30.11.2007 **K.T.SANKARAN, JUDGE**

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